

MINUTES

MONTANA SENATE 57th LEGISLATURE - SPECIAL SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIR BOB DEPRATU**, on August 9, 2002 at 10:30 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chair (R)
Sen. Alvin Ellis Jr., Vice Chair (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 30, 8/23/2002; HB 21,
8/23/2002; HB 16, 8/23/2002;
HB 18, 8/23/2002; SB 29,
8/23/2002

Executive Action: HJR 1; SB 30; HB 21; HB 16; HB
18; SB 29

EXECUTIVE ACTION ON HJR 1

Motion: SEN. BILL GLASER moved that HJR 1 BE CONCURRED IN.

SEN. JON ELLINGSON noted the effort that had been put into the measure but said he could not support it. He felt that the

estimate was low because of optimistic capital gains tax revenue projections. He felt that revenue would decline substantially.

SEN. GLASER did not believe they would know until next year what revenue would be. He thought that base line had been reached as that portion of revenue lost due to the stock market was reflected in last year. He noted he had argued without success to move the estimate the other way, but did not prevail. He said he would support the resolution.

SEN. DAN HARRINGTON thought it would be a nightmare if the Governor had to make further cuts because of a deteriorating situation. He said he would vote no.

SEN. JOHN BOHLINGER advised there were 35 sources of revenue identified in the document. He realized a great deal of work had gone into the 2003 projection. He said he did not question 34 of those revenue estimates but had reservations about embracing the income tax number especially when a significant part of that comes from capital gains. His own stock portfolio had been devalued over the past year and any capital gains were offset with losses, he said. The net affect would not leave him with a tax consequence and he thought he was typical of a lot of investors. He thought the estimate for individual income tax should be reworked. He said he could not support the measure in its present form.

SEN. ALVIN ELLIS said he was not ready to second guess the income tax estimates. He agreed with the concerns about the stock market but noted that real estate had been moving in Red Lodge and a lot of other places in Montana. Billings was expanding in that regard. While most of those sales were homes and not subject to capital gains, the most money was in property that was subject to capital gains.

SEN. EMILY STONINGTON believed that the **Legislative Fiscal Division** and the Governor's staff in the Budget Office and the **Department of Revenue** had been following this very carefully. The new estimate would be calculated in November. She felt it should be voted on.

CHAIRMAN BOB DePRATU advised all the arguments had been valid, but it was not possible to predict the risk. If there was to be a shortfall, it would be horrendous. He agreed with **SEN. ELLIS** about capital gains tax coming from real estate sales. He felt the information was valid and said he was prepared to vote yes.

SEN. PETE EKEGREN advised he was comfortable with the estimates and prepared to vote yes.

Vote: Motion that HJR 1 BE CONCURRED IN passed 5-3 with Bohlinger, Ellingson and Harrington voting no.

HEARING ON SB 30

Sponsor: SEN. BILL GLASER, SD 8, Huntley

Proponents: None

Opponents: Harold Blattie, Montana Association of Counties

Opening Statement by Sponsor:

SEN. GLASER, SD 8, Huntley, advised that in searching for ideas to generate revenue, it was discovered that everybody that pays money to the state of Montana pays on a quarterly basis. The exemption is the metal mines industry. They pay 3 months after the end of the year. By accelerating that payment to where it was half of what everybody else does, \$1.65 million will accrue into this years budget. The metal mine industry will pay twice a year. He gave examples of similar industries and others that pay quarterly. He did not know why metal mines were different but perhaps they have a difficult time estimating revenue.

Proponents' Testimony:

None.

Opponents' Testimony:

Harold Blattie, MACo, was representing the Montana Association of Hard Rock Mining Impact Counties. He advised that the metal mines license tax gross amount is determined from gross proceeds. He pointed out the calculations and computations needed to derive the gross proceeds amount was a complex undertaking.

EXHIBIT(tas05a01) The bill required the report to be made on the last day of the reporting period which would be like filing an income tax return on December 31. A period of time is needed to make the calculations. He expressed opposition to the bill but offered amendments. **EXHIBIT(tas05a02)** He felt if the state saw fit to pull this one-time accrual ahead and require the mines to subsequently file a report and pay every six months, then the state should be obligated to send the counties' share along to them. By having the payment due on June 30, that would allow the state to book the one-time accrual. On an ongoing basis, the state would be picking up the interest for that period of time for approximately half of what the annualized amount would be.

Questions from Committee Members and Responses:

SEN. BOHLINGER thought that if all other business entities were required to make quarterly reports and payments, that at least a semi-annual payment similar to those that property owners would have to pay seemed reasonable. He knew the one-time advancement of payment would have an immediate impact, but asked if quarterly payments should be considered.

{Tape : 1; Side : B}

SEN. GLASER advised that since the tax was more difficult to figure than some and that since no more money would be accrued by going quarterly, he decided to set it at half.

SEN. BOHLINGER stated that it would simplify the process for the hard rock miners if they were only required to make the report and payment on a semi-annual basis.

SEN. GLASER concurred.

SEN. ELLIS asked if the industry was currently making the report on March 31st and paying their tax then.

Mr. Blattie answered yes.

SEN. ELLIS asked if the proposal asked them to make their report semi-annually and estimate on June 30th and December 31st what they owe.

Mr. Blattie said the language in the bill did not provide for an estimate but required making the actual calculation.

SEN. ELLIS asked **SEN. GLASER** if it was correct that it was not an estimate.

SEN. GLASER said the first one for all intents and purposes would be like an estimate. It wouldn't prevent them from making an adjustment. The second one was much more firm. They would have until March 31 until they had to pay it. The bill would accelerate half the payment.

SEN. ELLIS asked if they had to file the full report on each of those dates.

SEN. GLASER answered that was the only way to accrue the money.

SEN. ELLIS asked about the impact to taxing jurisdictions who address amended reports because of the difficulty filing the tax and who then may have to pay interest to taxpayers.

SEN. GLASER said it was probably an oversight and he did not have a problem with putting in the bill to distribute the money to the other entities when the money comes in. There was no intention to hold the money in the state. It belongs to local governments and to the various funds to make interest. The target was to accrue the money in this year. He advised he would support an amendment.

SEN. STONINGTON asked about the issue that **Mr. Bladdie** raised in comparing the new requirement to being required to pay income tax on December 31 before all the information is collected.

SEN. GLASER responded that they know what they got in the first half and are making an estimate or payment on the first half, rather than waiting six months and a quarter.

SEN. STONINGTON asked if taxes were due for January through June of 2001, would they not have to pay those taxes until December of 2001.

SEN. GLASER replied that they don't pay them now until March 31, 2002.

SEN. STONINGTON asked what his bill required.

SEN. GLASER advised the bill required that they pay the taxes twice a year rather than once a year and moves the dates around so the state gets the money within the framework of the budget.

CHAIRMAN DePRATU asked if the wording could be changed with an amendment that they make and pay an estimate of their tax.

SEN. GLASER said he had no problem with how the money was accrued and calling it an estimate. He reiterated that he would also support an amendment to distribute the local government share when it was received.

CHAIRMAN DePRATU advised that changing the wording to an estimate would require less accounting on their part. It would achieve the purpose and solve some problems for the mining companies.

SEN. GLASER said he would have no problem with that but wanted to check with the staff to make sure the bill would still work.

SEN. STONINGTON asked **Judy Paynter** if there would be a problem if estimated payments were made on a semi-annual basis and those payments were disbursed to the counties and then they were overpaid or underpaid.

Judy Paynter, Department of Revenue, replied it would become a problem when money was disbursed that would have to come back. She advised that they try to get those types of adjustments rolled in to the next year's payment and distribute less the next time.

SEN. STONINGTON was concerned about setting up a timing sequence. She said they couldn't all be estimated payments because there would never be a reckoning. Part of the issue, she felt, was in having the tax due on the day of the reporting period is over. There had to be a tax preparation period. There would have to be something similar to making estimated payments on income taxes during a portion of the year until a final point in time followed by a tax preparation period. She thought the bill needed to be set up to affirm that the people paying the tax had time to adequately prepare their taxes, pay a portion of them in estimated tax payments and then have a final reckoning.

SEN. ELLIS asked **Mr. Blattie** if the bill could be amended to work with the problems that were discussed.

Mr. Blattie thought the changes that had been discussed would certainly alleviate the concerns of the counties. If the first payment was based on an estimate and the day of reckoning was in the customary time frame when the actual return and report was due, he did not believe that would put but very little additional reporting burden on the industry. If the distribution was done as **SEN. GLASER** had indicated he would be willing to accept, counties would not object to the bill.

SEN. ELLIS asked if payments made in excess of what was actually due would present a problem for counties.

Mr. Blattie hoped they would not be over 50% off. The situation that could come into play would be a mine that was in production in the first reporting period and made an estimate based upon an annualized amount and then ceased production during the second half of the year. He felt that would be rare and could be accommodated.

Closing by Sponsor:

SEN. GLASER closed on the bill. He advised the committee would not determine how the money would be spent, but it would make a

difference in the deficit. The dollars were already counted, he advised.

HEARING ON HB 21

Sponsor: JOE BALYEAT, HD 32, Bozeman

Proponents: None

Opponents: None

Opening Statement by Sponsor:

JOE BALYEAT, HD 32, Bozeman, advised HB 32 was an act maximizing general fund revenue by enhancing collection of state reimbursement for indirect costs associated with federal or private contracts and grants; requiring full recovery of indirect costs from federal and private grants; providing that an agency may not waive reimbursement for indirect costs; providing an exception for units of the university system and intra agency grants and contracts; requiring the **Department of Administration** to provide assistance to agencies. He said it was a good management bill that came out of the Legislative Audit Committee. He said he had additional sponsors from the Legislative Audit Committee from both the Senate and the House including the Chairman, **SEN. TESTER**. The estimate was that it would save \$1.5 million in this fiscal year, \$1 million in 2004 and \$600,000 in 2005. He discussed a memo from the **Legislative Audit Division**. **EXHIBIT(tas05a03)** He said Universities were exempted because they are doing a good job with recovering the costs. An amendment would add interagency grants to the exceptions, he advised.

{Tape : 2; Side : A}

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. STONINGTON asked if the fiscal note was based on requiring full indirect cost recovery from universities going into the general fund.

REP. BALYEAT replied that even when the universities were included in the bill, it was recognized that the money would stay with the university system. There was an internal reason to include the universities but that could be addressed in the regular session.

SEN. STONINGTON found it curious, given his philosophy about government that he had used a stick rather than a carrot--why he chose not to write it as an incentive to agencies to be able to keep their indirect costs and be able to utilize those monies in their programs.

REP. BALYEAT advised he didn't write the language of the bill; it came out of the **Legislative Audit Division**. It was a bipartisan bill that was co-sponsored. The reason to not use a carrot instead of stick was that if agencies kept the money from indirect costs recovery, that would eventually come out in their budgets. There would not then be a positive impact to the general fund.

SEN. STONINGTON advised there would have to be another fund transfer based on the amounts.

REP. BALYEAT said there was not much distinction between using a carrot or a stick, because it was government agencies. If it was a transfer of money somehow out to the private sector, he would look for a way to use a carrot.

Closing by Sponsor:

REP. BALYEAT closed on the bill.

HEARING ON HB 16

Sponsor: **REP. DEE BROWN, HD 83, Hungry Horse**

Proponents: **None**

Opponents: **None**

Opening Statement by Sponsor:

REP. DEE BROWN, HD 83, Hungry Horse, advised the bill came from information received while she served on **Legislative Audit Committee**. **EXHIBIT(tas05a04)** The bill was an act maximizing interest earned by the general fund by limiting inter-entity loans in funds or accounting entities that are owed money by the federal government or other third parties; requiring the borrowing agency to bill the federal government or other third

party and to certify the billing to the agency that approved the loan.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. ELLIS asked **REP. BROWN** to clarify the fiscal note.

REP. BROWN advised she did not sign the first fiscal note because one of the audits on **DPHHS** had over \$1 million in it. She asked then asked for the revised fiscal note.

SEN. ELLINGSON said the bill would require state agencies to bill out for interest on loans. He asked **REP. BROWN** who was paying the interest on the loans.

REP. BROWN advised it would not bill out for interest. It would require state agencies who were being the pass through for money for the federal government or other third parties to show that they have billed for that amount before they can come to the state coffers and borrow the money. In the past they had been asked to do that but not all agencies were as good as others. The requirement would save the taxpayers nearly \$1 million a year.

SEN. ELLINGSON asked if it was correct that they could not get the loan from the general fund until they had documentation that they had billed the federal government for the amount that they were to be reimbursed

REP. BROWN said that was correct.

SEN. ELLINGSON asked if the theory on saving money was that in forcing them to bill for the reimbursement, that they would come to the general fund for fewer loans.

REP. BROWN replied yes.

SEN. BOHLINGER asked about the assumption for \$42 million in loans for FY2002. He asked if there was any sort of default record or if the money always comes in.

REP. BROWN said the money did eventually come in, but sometimes it took many months or over a year. The bill will make agencies accountable, she stated.

SEN. BOHLINGER advised it was a great idea and he wanted to see it move forward.

Closing by Sponsor:

REP. BROWN closed on the bill.

HEARING ON HB 18

Sponsor: REP. ROBERT STORY, HD 24, Park City

Proponents: Gordon Morris, Director, Montana Association of Counties
 Alec Hanson, Montana League of Cities and Towns
 Tim Burton, Helena City Manager
 Mona Jamison, Gallatin County
 Joe Mazurek, City of Great Falls
 Jane McCall, City of Billings
 Stewart Doggett, Montana Innkeepers Association
 Dick Miller, Blaine County Commissioners
 Daniel Watson, Rosebud County Commissioner
 Amy Sullivan, Montana Tourism Coalition
 Ron Alles, of Lewis and Clark County
 Jack Adow, Ravalli County Commissioner
 Elizabeth Andrews, Montana Campaign for Tobacco Free Kids
 Dr. Robert Sheppard

Opponents: Tom Biledeaux, MEA-MFT
 Bob Vogel, Montana School Board Association

Opening Statement by Sponsor:

REP. ROBERT STORY, HD 24, Park City, advised the bill would revise and clarify state/local finance--HB 124 housekeeping and fixes and some revenue adjustments that dealt with the growth factor in the county entitlement share and the consolidated governments entitlement share and the way vehicle revenue relates to school funding in the county-wide mil levies for schools and the school block grants. The bill also had a one-time appropriation of \$200,000 for the city of Bozeman because of the way they were accruing their gambling revenue. They were the only city in Montana that was on an accrual method. When the switch over was done in gambling, they were shorted \$200,000. He

advised that HB 124, in the last session, died on the Senate floor and was then reconstituted in Conference Committee, redrafted and eventually passed. In the redrafting the growth factors for local counties and consolidated governments was incorrectly drafted into the bill. That caused an overpayment of entitlement money to counties and consolidated governments. The correct growth numbers were 2.3% for counties and 2.65% for consolidated. An adjustment would be made in their second year payment. He said there was a discussion in the House as to whether this was a tax increase. There was some technical language that was cleaned up. He advised that the local option tax on vehicles first priority was to fund district courts and that reference needed to be taken out of statute, since the state took over the District Courts. The local option money would not come to state government. It was to stay at the local level. He explained the effect of the amendments that were put on the bill. He explained how the bed tax money that was restored was dealt with in the bill. An amendment being proposed would require that if a local government, through an ordinance or some other process, caused the revenues from gambling, alcohol, vehicles, financial institutions and a few minor ones to fall, that the local governments entitlement shares be reduced commensurate, he informed the committee. He said there were people concerned about that amendment that would be testifying. He hoped the bill would come through unamended so it would not go to conference committee. He noted it passed the House by six votes after an hour and a half debate. There was \$4 million in the bill to solve the ending fund problem, he reminded the committee.

Proponents' Testimony:

Gordon Morris, Director, Montana Association of Counties, pointed out to the committee that the bill had a long time in the making. He said the bill was a housekeeping issue. He spoke strongly in opposition to any amendment to the bill. He said there was a mechanism in HB 124 that would allow the legislature to adjust the entitlement reflective of any decrease in any revenue that is now going to the state in the program. The counties supported the bill.

Alec Hanson, Montana League of Cities and Towns, supported HB 18 as it came from the House. The corrections to HB 24 made the law consistent with the intent of the legislature; it fixes some problems in the calculation of the entitlement shares for counties and consolidated governments. The league supported the changes and had a chance to work on the bill. The bonus was the bill adds \$4 million to the general fund without causing any harm to any county or consolidated government. If the amendment was moved in the committee he wanted the members to know the League of Cities and Towns were opposed to the amendment. HB 124 was

intended to simplify local government finance--to make it more predictable. It should not be used as a tool through the legislature to influence local government policy, he held. The amendment was about an ordinance enacted in Helena through a public vote and the bill was not the place to change the outcome of that vote or influence the city of Helena or other cities and towns across the state of Montana on a policy decision that was the legitimate responsibility of local governments.

{Tape : 2; Side : B}

Tim Burton, Helena City Manager, stood in support of HB 18. He advised the City of Helena was the target of the amendment and they would strongly oppose any effort to move that forward. The city commission approved the ordinance, it went to the voters and 62% of registered voters showed up and 71% of those voters approved the ordinance. The ordinance had been in place for two months. By the regular session, there would be real numbers. He acknowledged the legislature did have the authority to preempt the city's action, but he hoped it would be done in the light of day and with public participation in the regular session. He felt the cleanup on HB 124 was important. He said the ordinance was being appropriately contested in court.

SEN. DePRATU advised the amendment was not before them and asked that they stick to the bill.

Mona Jamison, Gallatin County, spoke in support of HB 18. She said they were reluctant supporters of HB 124. She thought the bill was an adequate clean-up. She objected to the amendment because it would be brought on the floor of the Senate. That would be an attempt, on a very important issue, to prevent the public from having input. The amendment wasn't really about smoking and whatever revenue may be lost through the smoking initiative that was passed in Helena. The amendment was really an assault on local control. The reason the attempt was through the amendment was because to attack it head-on would have been outside the scope of the call. It was a way to hold hostage local governments and to subvert the process. Gallatin County was not taking a position on smoking or tobacco ordinances. They were taking a position in opposition to the amendment.

Joe Mazurek, City of Great Falls, expressed support for HB 18 as written and opposed any amendment to penalize or financially exhort cities not to have the authority to enact ordinances that they may choose, whether by vote or act of a city commission. The bill allowed for the correction of some errors. The whole concept of HB 124 was to build a new trusting relationship between state and local government. He said they had the

authority to preempt a local government but the debate should be in the regular session.

Jane McCall, City of Billings, supported the bill as it came from the House. She expressed absolute opposition to the tactics of the amendment. It was about local control and had nothing to do with the bill.

Stewart Doggett, Montana Innkeepers Association, said his reason for supporting the bill was that the industry had come forward to support using bed tax reserves for remedying the budget and it ended up in a portion of the bill. He said page 42, Section 33 would be for using those reserves to help the budget plight and HB 2 was another component to backfill for the Historical Society and the State Parks Department.

Dick Miller, Blaine County Commissioners, stood in support of the bill without amendments.

Daniel Watson, Rosebud County Commissioner, stood in support of HB 18. His county would lose some money in the entitlement adjustment but felt the bill needed to be in place to make the necessary corrections in other areas.

Amy Sullivan, Montana Tourism Coalition, reiterated that they supported HB 18 and the transfer of the money as long as it was one-time only and comes out of the cash reserve fund as directed in HB 2.

Ron Alles, of Lewis and Clark County, said the county wanted to go on the record in support of HB 18 and in opposition to any amendments.

Jack Adow, Ravalli County Commissioner, spoke in support of the bill and against the amendment.

Elizabeth Andrews, Montana Campaign for Tobacco Free Kids, said the Helena community got really involved in the issue. She said they supported the bill but not the amendment because it took away that involvement on a community level which was very important.

Dr. Robert Sheppard, on behalf of health organizations, rose to oppose the amendment. Their position was that the amendment had no place in the bill and urged them to respect the bill as it came from the House.

Opponents' Testimony:

Tom Bilodeau, MEA-MFT spoke of the impact of the bill on state funding for public schools in the state. For FY03 state funding for schools was cut by a little less than \$8 million. To add in the impact of the bill, it would be well over \$10 million. School transportation block grant, the elementary retirement block grant, and county high school retirement block grant monies would be reduced. In some school districts some of that money could be recovered through use of reserves and retirement funds, but that was not true for all school districts and counties. In many cases, that would result in a property tax increase. The alternative would be to cut bus routes and miles or to underfund reserves in the county retirement levies. He advised that when school block grant monies were reduced that would be paid for by local taxpayer effort. That would be a clear \$1.2 million increase in local property taxes. He advised there were still bills and mechanisms available to meet the social and educational needs of the state. He offered an amendment restoring the block grant monies.

Bob Vogel, Montana School Board Association, expressed apprehension with the bill and reiterated the concerns of **Mr. Bilodeau**. He said they would support the amendment dealing with that portion of the bill but no other amendments.

Informational Testimony:

Mark Simonich, Director, Department of Commerce, advised the department had offered up bed tax money as part of the effort to help solve the budget crisis. Although the funds were not necessary for this year to promote tourism in the state, they were funds that they had other plans for. He said they would forgo creating a new customer relations software package. When the money was offered, it was originally to fund tourism related activities in the state--the Historical Society, Arts Council, Parks Division and Museum of the Rockies. The House at one time stripped that money out of HB 2 and put it in the flex fund. Senate Finance and Claims restored the funding. The language in HB 2 says that the \$1.7 million for those activities come out of the bed tax. The language in HB 18 says that \$1.7 million goes from bed tax to general fund. He said it couldn't be spent twice and his concern that it would be double counted. He said it would be one time and he had a concern that the two different bills had somewhat different language directing the money in two different directions.

Arnie Olson, Director, Montana Historical Society, said they had an interesting week and had taken the for sale sign off the society as of the previous night. He felt there needed to be

some technical language of an amendment either in this bill or HB 2 to coordinate the transfer properly.

Madalynn Quinlan, OPI, testified that the discussion on the bill might be if the bill was a property tax for schools or not and what kind of reserves would school districts have to offset what would otherwise be a property tax increase. She believed that the school district general fund budget, the county retirement budget and transportation budget would translate into a property tax increase to the extent that schools would be getting less through this bill than they thought. In terms of the county transportation and county retirement funds, there were no reserves in those funds. They were fund balances that were re-appropriated to reduce levies next year.

Questions from Committee Members and Responses:

SEN. ELLIS asked **REP. STORY** about why the adjustments were necessary.

REP. STORY replied that the adjustments were basically necessary because of the 93% to 88% difference in vehicle money. When the figures were made in the bill they were estimates. The adjustment was made when the year was closed out and treasurer's reports were in for the base year for those funds, he advised. They are now relying on the reported numbers from county treasurers. The general fund was all vehicle money adjustment. The school block grant section was not hard coated and **OPI** had already reverted a significant amount of money to the general fund because they could not disperse it. They could only disperse what the districts had actually used. He was not certain about whether the schools could have used the block grant money or whether they would have ended up reverting it. He advised the bill needed to be coordinated in HB 2 to deal with **Director Simonich's** concerns. That could be done in HB 2 in Conference Committee.

SEN. ELLIS asked **Ms. Quinlan** for further comment on the block grant money.

Ms. Quinlan advised that the original appropriation for school block grants in HB 124 was \$114 million. Based on the data from schools from FY01, they already knew that they would revert \$6.4 million of that because the block grants based on actuals will be less than what they needed. In addition, this bill would pull back \$1.775 million and that was the adjustment for the motor vehicle money. The money pulled back in the bill would be money that schools otherwise could have used.

SEN. STONINGTON asked about adjusting to the bill being worked on for over a year with some knowledge that there wasn't going to be that money; she hated to see it end up in property tax increases. She wondered how the distributions were made or why they were made to schools, anticipating adjustments in this money, and where that got askew.

{Tape : 3; Side : A}

Ms. Quinlan replied they had known about the FY02 block grants since they finalized them in January of 2002. The notion of adjustments came up in June when the **LFD** raised that as one of their budget issues and presented it to the **Legislative Finance Committee**. That was the first she understood that there was any discussion about adjusting based on the data that had been reported. The block grants for schools will be less next year than what they got the previous year. Block grants for FY03 had not been distributed nor had they given schools any figures as to what they should anticipate in the FY03 block. They had held up distributing data to schools until the special session was over.

SEN. STONINGTON asked if the anticipation of property tax increases was from prior year budgeting.

Ms. Quinlan answered it was compared to present law. She said it was not so much about what schools think they're going to get, but when they do a fiscal note, they look at what they would have gotten under present law versus what they will get under the proposed bill. They will get less under the proposed bill, hence the tax increase.

SEN. STONINGTON advised **Mr. Simonich** that the issue of the generosity of the **Department of Commerce** and the bed tax money had been bothering her since before the session began. She had seen an article in the paper talking about the surplus funds. For **Travel Montana** to be offering up \$1.7 million out of surplus money, is not exactly chipping in their fair share, she felt. She didn't think that department or that program were taking anywhere near the kind of decreases in monies that most departments were. And yet they had offered up more than the fair share for research cuts. She asked for his comment.

Mr. Simonich replied that the research board was attached to the **Department of Commerce** and it was part of the total budget of the **Department of Commerce**. He noted that the amount of money that the department put forward from various sources, including 9.9% in the Governor's cut from department. The department had appropriations of \$7.7 million in general fund after the last legislative session. Most of that was statutory appropriation--

\$4.85 million for the research and commercialization board and \$1.1 for economic development activities. Coming into the special session, the department had brought \$4.8 million to the table. That money came from general fund and coal trust interest money the department has that reverts to the general fund if they don't spend it and it includes bed tax money. They purposely did not say this was only a general fund problem and they would only try to solve it with general fund. He refused to allow his administrators and program managers to stand on it as special money that was not available to be touched. Coming into the special session, their offering was an amount equal to 60% of the general fund in the department. Additional cuts made in HB 10 in the House had put them at around \$5.5 million. He believed the Department of Public Health and the University System and Education were the only entities of government who had given more total dollars out of the respective amounts of all sources of funding that were available to them. They did not take any of those cuts lightly and they offered them up in the spirit of trying to provide the legislature the best opportunity to look at resources available to fix the entire budget. He said he did not know of a time when the Department of Commerce or the tourism industry had ever actively supported taking bed tax money for purposes other than directly towards tourism promotion. His concern in coming before the committee was that it appeared that the same money may be tapped twice and he wanted it fixed.

SEN. STONINGTON noted that, sitting on the tax committee, they did not get involved very frequently or very easily in where the cuts were coming from. Since it was in the bill it was an opportunity for her to at least voice her concern that, at least on the tourism portion, it was any cut at all--it was just taking some surplus.

SEN. BOHLINGER told **Ms. Quinlan** he had a keen interest in insuring that K-12 education was adequately funded and the reduction in block grant money concerned him. His concern was how it would affect **School District #2** in Billings.

Ms. Quinlan said she couldn't answer that question but the reduction statewide was \$2 million. She said they could give him a figure on what the impact to the **Billings School District** would be.

SEN. BOHLINGER asked about what it would mean in terms of a tax increase.

Ms. Quinlan advised it was a \$1.2 million net impact statewide on schools. They were taking away \$1.8 but were backfilling with about \$.6 million.

SEN. BOHLLINGER commented that they were all concerned about funding education at a sufficient level. It would be helpful to know how much a local tax increase would be, he declared.

Closing by Sponsor:

REP. STORY closed on the bill. He advised the discussion would be on the changes in the school funding. Most of the change had to do with vehicle money--the change from the 93% to 88%. Without the bill they would have had those mill levy adjustments anyway. He supplied and explained some written information to assist the committee. EXHIBIT(tas05a05) EXHIBIT(tas05a06) EXHIBIT(tas05a07).

EXECUTIVE ACTION ON SB 30

Motion: SEN. GLASER moved that SB 30 DO PASS.

Motion: SEN. GLASER moved that AMENDMENT HB003001.ALH BE ADOPTED. EXHIBIT(tas05a08)

Discussion:

SEN. STONINGTON asked why the amendment was written up twice.

Lee. Heiman, Legislative Fiscal Division, advised that there were two versions of that section--a temporary version and an effective July 1, 2002 version. When it was actually amended, there would only be one version.

Vote: Motion HB003001.ALH carried 8-0.

Motion: SEN. GLASER moved that SB 30 DO PASS AS AMENDED.

SEN. GLASER noted there had been some confusion, and explained that the money would be accrued in the period and consequently before the end of the period they put out a report. They would have 45 days after the end of the fiscal year to actually pay the money on the first payment.

SEN. STONINGTON asked where it said that.

Mr. Heiman advised that was on page 3 lines 18-21.

SEN. GLASER said that took care of the problem of paying the money right at the end of the period. After this fiscal year, the money would become available twice a year rather than once a year.

SEN. STONINGTON about the two different time periods.

SEN. GLASER advised one was already in the law. The second one was added. There was only 60 days in order to accrue it.

SEN. STONINGTON expressed concern about the inconsistency. She wondered if the 3 months was the first time only and then 45 days after that.

Mr. Heiman advised that for every December payment there would be a quarter to pay it and for every June payment there would be six weeks to pay it. Six weeks was literally because there was eight weeks after the state closes its books for the accrual to show up.

SEN. STONINGTON asked if there was a problem with inconsistency.

CHAIRMAN DePRATU advised it would not be a problem because the middle of the year payment was an estimated payment and there would not be all the detail and auditing as when closing the books at the end of the year.

SEN. ELLIS thought it was an appropriate idea from a principle standpoint but was a little concerned that no one was there from the mining industry to deal with any problems that they might foresee. He noted the regular session was coming up and any problems would be addressed at that time. He said he would support the amended bill.

SEN. STONINGTON asked about the other amendment.

SEN. GLASER said he took **Mr. Blattie** to the staff that put this together. They explained what was going on and **Mr. Blattie** felt comfortable. His only concern was if this money was to be collected, that counties get their share in a timely fashion.

Vote: Motion that **SB 30 DO PASS AS AMENDED** carried 8-0.

EXECUTIVE ACTION ON HB 21

Motion: **SEN. STONINGTON** moved that **HB 21 BE CONCURRED IN.**

Motion: **SEN. STONINGTON** moved that **HB002101.ALH BE ADOPTED.**
EXHIBIT(tas05a09)

Vote: Motion that **HB003001.ALH BE ADOPTED** carried 8-0.

Motion/Vote: **SEN. STONINGTON** moved that **HB 21 DO PASS AS AMENDED.** Motion carried 8-0.

EXECUTIVE ACTION ON HB 16

Motion: SEN. BOHLINGER moved that HB 16 BE CONCURRED IN.

Discussion:

SEN. BOHLINGER advised that what was proposed represented a good accounting practice to notify those being provided credit that there was an obligation and that they should pay. He was astounded that there was \$42 million of outstanding receivables.

SEN. STONINGTON thought the bill only told agencies to certify that they were actually billing the federal government but did not guarantee the federal government was going to pay up quicker. She thought maybe they were just languishing and not doing the billing itself. She hoped it works.

SEN. ELLIS said that was the problem. This way they could not borrow the money until proving they had billed for it.

SEN. DAN HARRINGTON added that when the reports came in, this was one of the deficiencies reported.

Motion/Vote: SEN. ELLINGSON moved that HB 16 BE CONCURRED IN AS AMENDED. Motion carried 8-0.

{Tape : 3; Side : B}

-recess- 1:00 p.m.

-reconvene- 6:45 p.m.

HEARING ON SB 29

Sponsor: SEN. VICKI COCHIARELLA, SD 32, Missoula

Proponents: Dave McAlpin, Protect Montana Kids
Eric Burke, MEA-MFT
Dick Crofts, Commissioner of Higher Education

Opponents: Jerome Anderson, R. J. Reynolds
Steve Waite, Phillip Morris

Opening Statement by Sponsor:

SEN. VICKI COCHIARELLA, SD 32, Missoula, advised her bill was an effort to solve the problems in the short term and bridge the gap

for the special session. She said the bill had two parts--to borrow \$50 million from the coal tax fund, and pay that off with a 50 cent a pack cigarette tax. The concept had protection language for the coal tax fund for a guaranteed payback. The payback would take about a year and a half. The bill would generate anywhere from \$22 to \$26 million for this year. She had asked for amendments to take the coal tax out in order to avoid the 3/4 vote. The most important part of the legislation to her, she advised, was the prevention piece that goes into taxing cigarettes. She said she was the chief sponsor of the Montana Radon Control Act. Radon was the second leading cause of lung cancer and Montana was one of the first places it was discovered. The purpose for the tax to her was to prevent children from smoking--to cause a disincentive to them to stay off tobacco. She thought that for the sake of society and of health care, it was very important to pass the cigarette tax increase. She added that the bill was an effort to take care of those things just gone over in HB 2 today and in particular those children and elderly people in our state that are disadvantaged; to take care of our school systems and not pass on property tax increases; to use the tax as a tool to get to the next session where things can be dealt with over a longer period of time and with deeper thought.

Proponents' Testimony:

Dave McAlpin, Protect Montana Kids, supported the tobacco tax as a concept that is one of the best ways to keep kids from smoking. A 50 cent tax in Montana would raise approximately \$32.6 million and prevent 4400 kids from smoking. It would prevent 1400 of them from dying of smoking related illness at the end of their life. It would prevent 4000 present adult smokers who would likely quit smoking. With regard to those suffering from heart disease and strokes, the health care savings to Montana would be at least \$1.5 million. The five year pregnancy and birth savings to the taxpayers of Montana would be at least \$1.3 million and the long term health care savings to Montanans would be \$85.8 million.

Eric Burke, MEA-MFT, reiterated that there were revenues available and this vehicle would provide one source of revenue. He thought it was appropriate use of the coal tax monies-- borrowing from the coal tax and repaying in very short order, but understood that an amendment would take that out. He felt the cigarette tax was an appropriate tax to raise the revenue that Montana sorely needed and asked for a do pass on the bill.

Dick Crofts, Commissioner of Higher Education, advised that when he first spoke to the committee he indicated that there needed to

be a significant investment in the University System and wasn't sure that could happen without changes in revenue or tapping other sources of funding. He indicated that since then the fiscal situation at the University System had gotten worse. He believed there was no way to give the University System the money it needed to help make the state more prosperous without some imaginative approaches to increasing revenue or tapping some other sources of funding.

Opponents' Testimony:

Jerome Anderson, R. J. Reynolds, spoke in opposition to the bill. He pointed out that the industry was conducting the We Card program instructing through clinics throughout the state the people that vend tobacco products to be sure that minors are not sold the product. He thought that program was generally pretty effective. Statistics in Montana showed that there had been some reduction in the use of the product by those that are too young to use it, he held. He said they certainly discourage that type of activity.

Steve Waite, Phillip Morris, asked that the opposition testimony to SB 8 and SB 12 previously given be incorporated in. They thought tax increases were a bad idea last week and were still a bad idea and asked the committee to vote no.

Questions from Committee Members and Responses:

SEN. BOHLINGER asked **Mr. McAlpin** for the source of the numbers he cited for those that would quit smoking and lives that would be saved.

Mr. McAlpin said a lot of the data was from Tobacco-Free Kids and most of the data they use comes from the Center for Disease Control and Prevention studies. **EXHIBIT(tas05a10)**

Closing by Sponsor:

SEN. COCHIARELLA closed on the bill. She advised when she brought the bill forward, she got a lot of flack from her side of the isle. She was not afraid of that and had gotten a lot of flack from the other side of the isle for a tax increase. She said she was not afraid to defend and protect and speak for her constituents and the 68% of Montanan's who'd been polled who say a cigarette tax is acceptable to them. It was a way to fund education, she held. She said she wasn't afraid to do what she thought was right to prevent people from smoking or get them to quit smoking. She hoped them committee would pass the bill forward.

EXECUTIVE ACTION ON HB 18

Motion: SEN. GLASER moved that HB 18 BE CONCURRED IN.

Discussion:

SEN. BOHLINGER commented on the impact that HB 18 would have with respect to reductions in school district block grants. He had asked Madalyln Quinlan about how it would affect his town. He advised that in the Billings Elementary System it would boil down to a \$50,853 reduction and in the High School System it would amount to \$30,975. Considering the size of the budget, he did not think it was going to sink their ship. He thought more good was being done through HB 18 than harm being caused to school districts so he would support the bill.

Motion: SEN. ELLINGSON moved HB001803.ALH. EXHIBIT(tas05a11)

SEN. ELLINGSON said that while he appreciated SEN. BOHLINGER'S remarks that cuts would be small, He was concerned about asking local property owners to have their property taxes increased one more time because of what was done in Helena. The amendment was drafted to address that problem.

Mr. Heiman advised the amendment would increase the school block grant amount by the amount of the reduction.

SEN. ELLINGSON noted that although REP. STORY had presented that it was offered to correct a mistake, the mistake was built into the budgets of school districts and became what they expected. He was trying to meet their expectations and eliminate any possibility that there would be a further increase in local property taxes.

SEN. ELLIS opposed the amendment. If HB 124 had not been passed, the schools would have had to come up with the money anyway. The vehicle tax was estimated to raise 93% of the revenue and only raised 88.9% and so there was a shortfall. He said other governments were having to face this shortfall.

CHAIRMAN DePRATU asked REP. STORY if he had seen the amendment.

REP. STORY indicated he had and had opposed it on the floor. It was basically vehicle money that had made the difference in the percentage calculations. Schools hadn't set their budgets yet, so as soon as they had the number they could plug it in. It could mean a property tax increase or a use of reserves. There were a lot of ways to deal with it. He felt \$1 million across

all the school districts wasn't a whole lot of money in any particular district.

SEN. BOHLINGER asked **SEN. GLASER** if it would be necessary for School District #2 to raise taxes in the amount of \$81,000 to cover this new cost.

SEN. GLASER thought it could potentially cause a third or half a mill mandatory increase if they wished to do it that way.

SEN. BOHLINGER asked if there was any kind of reserve to provide for those kind of contingencies.

SEN. GLASER said they had reserves in excess of what they need but not in the areas that can be used for a large portion of this. They have reserves that can be used for the retirement portion.

SEN. ELLIS thought it would make a lot of difference how the school board reacts--what they choose to do. The bill was correctual legislation.

Vote: Motion that **HB 001803.ALH BE ADOPTED** failed 6-3 with **Ellingson, Harrington, and Stonington** voting yes.

Vote: Motion **HB 18** be concurred in carried 9-0.

EXECUTIVE ACTION ON SB 29

Motion: **SEN. HARRINGTON** moved that **SB 29 DO PASS**.

SEN. ELLINGSON asked if the bill was amended down to just a tobacco tax or in its form with the coal tax.

SEN. DePratu explained that they were borrowing \$50,000 from the coal tax and using the tobacco tax to repay that loan.

Motion: **SEN. ELLINGSON** moved **SB002901.ABC. EXHIBIT(tas05a12)**

SEN. ELLINGSON advised the amendment would just take the reference to take the reference to the coal tax and the borrowing out and leave the bill simply as a tax on cigarettes.

SEN. GLASER said there would be a bill on the floor that they would address that does what would happen if they amended this. He said he would resist the amendment. He didn't think they should change the bill out of respect for **SEN. COCHIARELLA**.

SEN. ELLINGSON thought it was her current desire to proceed in any fashion with simply a cigarette tax.

Vote: Motion SB002901.ABC carried 8-1 with Glaser voting no.

{Tape : 4; Side : B}

Motion/Vote: SEN. HARRINGTON moved that SB 29 DO PASS AS AMENDED. Motion failed 3-6 with Bohlinger, Ellingson, and Stonington voting aye.

Motion/Vote: SEN. ELLIS moved that SB 29 BE TABLED. Motion passed 6-3 with Bohlinger, Ellingson, and Harrington voting aye.

ADJOURNMENT

Adjournment: 7:15 P.M.

SEN. BOB DEPRATU, Chair

DEB THOMPSON, Secretary

BD/DT

EXHIBIT(tas05aad)